IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE TWENTY THIRD DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

&
THE HON'BLE MR. JUSTICE S.ANANDA REDDY

WRIT APPEAL NOS : 489 OF 1999, 1063 OF 1999 & 1076 OF 1999

W.A. No. 489 of 1999:

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 5-11-1998 in W.P.No.22031 of 1995.)

Between:

1. The Vi ce-Chanceller, Osmania University, Hyderabad.
2. Osmania University, represented by its Registrasr, OU, Campus, Hyderabad.

APPELLANTS.

AND:

1. Dr. V.Krishnamachari, son of late Sri V.Venkata Chari.
2. Sri G.Manohar Rao, Principal, P.G.College of Law, Basheerbagh, Hyderabad.
3. The Principal Secretary to Government of Andhra Pradesh, Education Department, Hyderabad.
4. Universities Grants Commission, New Delhi.
5. Andhra Pradesh Federation of Teachers Association, rep.by its Chairman, Avula Damodaram.
6. Dr. B.Srinivasulu Naidu.
7. Dr.M.A.Hussain.
8. Dr.Mrs. S.Usha Shree.
9. Dr.G.Ramakrishna Naidu.
10. Dr. A.Sreeramulu.
11. Dr.P.Balasiddamuni.
12. Dr.R.C.Hanumanthu.
13. Dr.B.Bhawan Reddy.

14. Dr.V.Chandramouleswararao.
15. Dr. Mrs. V.Sridevi.
16. Dr.T.V.Krishna Reddy.
17. Dr.M.Hanumantha Rao.
18. Dr.R.Manuvel.
19. Dr.P.Rajasekhara Reddy.
20. Dr.B.Raghavulu Naidu.
21. Dr.M.Vasudevareddy.

(Respondents 6 to 21 are Readers in S.V.University, residents of Thirupathi.)

22. Dr.V. Suryanarayana Rao.
23. Dr.M. Sambasiva Rao.
24. Dr.C.Sudhakar.
25. M.K.Devaki.
26. P.W.Purushotham.
27. N.E.Bhagavaty.
28. P.B.Appa Rao.
29. D.V.Subbaiah.
30. V.V.N.Raghavendra Prasad.
31. SriKrishna Devaraya University, Hyderabad.

RESPONDENTS/PETITIONERS

Counsel for the Appellants : Mr. Deepak Bhattacharjee.

Counsel for the 1st respondent : Mr. N.Raghavani.

Counsel for the 2nd respondent : Mr. G.Dhananjay.

Counsel for the 3rd respondent : GP for Higher Education.

Counsel for the 5th respondent : NP

Counsel for the 6th respondent : Mr. P.S.Sastry.

Counsel for the respondents 7 to 22 : Mr. C.V.Nagarjuna Reddy.

Counsel for the respondents 23 to 31 : Mr. C.Subbarao.

W.A. No.1063 of 1999:

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(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 15-11-1998 in W.P.No.20580 of 1998.)

Between:

Sri Venkateswara University, Tirupathi, represented by its Registrar.

Appellant(3rd party)

And:

1. Dr. M.V.Ramkumari Ratnam, son of not known, Teacher.
2. Dr.C.Narasiomha Rao, son of not known, Teacher.
3. Dr.K.B.Mahalakshmi, wife of not known, Teacher.
4. Bhavanari Satyanarayana, son of not known, Teacher.
5. Dr.Muvva Vijaya Lakshmi, wife of not known, Teacher.
6. Dr.R.R.L.Ratnam, son of not known, Teacher.
7. Dr.V.Samba Siva Rao, son of not known, Teacher.
8. Dr.G.V.S.R.Anjaneyulu, son of not known, Teacher.
9. Dr.S.Srihari Sastry, son of not known, Teacher.
10. Dr.P.Shankara Pitchaiah, son of not known, Teacher.
11. Dr.P.Narasimha Rao, son of not known, Teacher.
12. Dr.K.R.S.Samba Siva Rao, son of not known, Teacher.
13. Dr.J.Sitaramamma, wife of not known, Teacher.
14. Government of Andhra Pradesh, represented by its Secretary, Department of Higher Education, Secretariat, Hyderabad.
15. The Registrar, Nagarjuna University, Nagarjuna Nagar, Guntur District.

(Respondents 1 to 13 are residents of Nagarjuna Nagar, Guntur District)

Respondents

(Petitioners 1 to 13 and respondents 1& 2)

Counsel for the appellant : Mr. P.S.Ramulu Naidu.

Counsel for the respondents: Mr. P.V.S.S.S.Ramarao.

W.A.No.1076 of 1999:

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 5-11-1998 in W.P.No.22031 of 1995.)

Between:

1. Osmania University Teachers Association, Registered Association, having its office at Osmania University Campus, located at University College of Arts and Social Sciences Building, Hyderabad-500 007, represented by its President Prof. P.L.Vishweswar Rao.
2. Prof. S.Pullaiah, son of S.Basavaiah, aged about 57 years, working as Head of the Department in the Department of Technology (presently on deputation) Osmania University Hyderabad)

Appellants.

And:

1. Dr.V.Krishnamachary.
2. Vice-Chancellor, Osmania University, Hydeabad-500 007.
3. Osmania University, rep.by its Registrar, O.U.Campus, Hyderabad-7.
4. Sri G.Manohar Rao, Principal, P.G.College of Law, Basheerbagh, Hyderabad-500 001.
5. The Prl.Secretary to Government of A.P., Education Department, Secretariat Buildings, Hyderabad.
6. Universities Grants Commission, New Delhi.
7. Andhra Pradesh Federation of Teachers, Association, represented by its Chairman, Avula Damodaram.
8. Dr.B.Srinivasulu Naidu.
9. Dr.M.A.Hussain.
10. Dr.Mr.sS.Ushasree.
11. Dr.G.Ramakrishna Naidu.
12. Dr.A.Sreeramulu.
13. Dr.P.Balasiddamuni.
14. Dr.R.C.Hanumanthu.
15. Dr.B.Bhagavan Reddy.
16. Dr. V.Chandramouleswara Rao.
17. Dr. Mrs. V.Sridevi.
18. Dr.T.V.Krishna Reddy.
19. Dr.M.Hanumantha Rao.
20. Dr.R.Manuvel.
21. Dr.P.Rajasekhar Reddy.
22. Dr. B.Raghavulu Naidu.
23. Dr.M.Vasudeva Reddy.

(All readers in S.V.University, Tirupathi, residents of Tirupathi).

24. Dr.V.Suryanarayana Rao.
25. Dr.M.Sambasiva Rao.
26. Dr.C.Sudhakar.
27. M.K.Devaki.
28. P.W.Purushotham.
29. N.E.Bhagavaty.
30. P.B.Appa Rao.
31. D.V.Subbaiah.
32. V.V.N.Raghavendra Prasad.
33. Sri Krishna Devarayana University, Anantapur.

Respondents/Respondents.

Counsel for the appellants : Mr. P.V.S.S.S.Ramarao.

Counsel for the respondents: Mr.N.Raghavan (R1), Mr.Ramakanthreddy (R2 and

R3), Mr.C.V.Nagarjuna Reddy (R8 to 23), Mr. C.Subbarao (R24 to R32), Mr.Rajeevareddy (R33)

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The Court made the following:

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NOS: 489 OF 1999, 1063 OF 1999

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1076 OF 1999

COMMON JUDGMENT: (Per the Honourable Smt.Justice T.MEENAKUMARI)

The present appeals have been preferred by the different Universities aggrieved by the common order of the learned single Judge passed in W.P.No:20231 of 1995 and 20580 of 1998 on 5.11.1998.

Since the parties and the issue involved in all the writ appeals, are one and the same, these appeals are disposed by a common judgment.

The 1st respondent in W.A.489 of 1999 and W.A.1076 of 1999 is the writ petitioner in W.P.No:22031 of 1995. He filed the said writ petition seeking a direction to promote him as a professor under the merit promotion scheme with effect from the date of promotion of the 3rd respondent therein conferring higher position over him.

Respondents-1 to 13 in W.A.1063 of 1999 are the writ petitioners in W.P.No:20580 of 1998, which has been filed seeking a direction to declare the action of the respondents therein in fixing retrospective cut off date in G.O.Rt.No:589, Education (USI-1) Department, dated 5.5.1998 as illegal and to direct the respondents to consider their applications in accordance with law and G.O.Rt.No:589, dated 5.5.1998.

The learned single Judge having observed that it is very difficult to give any direction to promote the petitioner as professor and the question of fixing any cut off date under merit promotion does not arise, closed both the writ petitions. While closing the writ petitions, the learned single Judge has made certain general observations from the last paragraph of page 52 of the judgment. Having aggrieved by the same, the present writ appeals have been preferred by the different Universities.

Heard the learned counsel on either side.

It is submitted by the learned counsel appearing on behalf of the appellants that the direction issued by the learned single Judge to the effect that the promotions should be reviewed and till then, the promotions should not be affected, is out side the purview of the writ petition. It is further contended that the other observations of the learned single Judge, have also been made in the absence of any necessary parties and without any relief sought by the petitioners and therefore, they may be considered to be deleted from the order of the learned single Judge.

We have perused the order of the learned single Judge. After closing both the writ petitions, it is observed by the learned single Judge at page 52 of the order as under:

> "With the experience, I had for over 30 years with the administration of the affairs of the State. If I leave this matter at this stage, I am afraid that the judgment will not be implemented in its true spirit and tenor. Hence, I would like to monitor the implementation of the Scheme myself and also to

see that the unfortunate teachers who could not get their promotions because of lack of pull, to get their promotions at the earliest possible time.

Accordingly, a direction is given to the Registry to summarise all the directions given in this judgment and register the same as a taken up writ petition by showing secretary, Higher Education, Government of A.P., Secretary (Finance), Government of A.P., Commissioner, Higher Education and all the Vice Chancellors in the State of A.P. as party respondents to it.

Post the writ petition on 20.4.1999 after service of notices to all the above mentioned officers.

By that time, the Government shall inform this Court what action they have taken with regard to the excess amounts paid to the individual teachers under the illegal promotions given to them. They should also see that all the Vice Chancellors call for options of the individual teachers and on the basis of the options exercise by the individual teachers, review the promotions effected from 1.1.1986 till this date with the time stipulated in the judgment and take action as per the directions of the Government with regard to the recovery of the excess amounts paid to the teachers concerned. The Vice Chancellors shall also report to this Court the action taken by them on receipt of a copy of the judgment. The Commissioner, Higher Education shall also review the promotions given to the teachers working in the Government Colleges, as well as Aided Colleges as per this judgment and report to this Court within the time prescribed above."

Coming to the relief sought for in the writ petitions in question, one is for a direction to the appellants to give promotion as a professor and another is for declaring the action of the respondents in fixing retrospective cut off date in G.O.Rt.No:589, dated 5.5.1998 as illegal. In this regard, the learned single has rightly rejected the claim of the petitioner for promotion as Professor and has rightly observed that the question of fixing any cut off date under Merit Promotion does not arise if an individual teacher wants to be governed by the Merit Promotion Scheme by exercising his option within the time stipulated above. As a matter of fact, the Merit Promotion scheme has not been challenged by any of the parties. Therefore, the finding as to the scheme itself by way of reviewing all the promotions etc., is beyond the scope of the writ petition.

While coming to the observations as quoted above, We are of the considered view that the said observations narrated after the result portion of the writ petitions at page 52 of the order, cannot come within the ambit of the relief that is sought for by the petitioners and apart from that, they are all outside the scope of the writ petitions. In this view of the matter, We have no hesitation to hold that the observations in the

order of the learned single Judge as quoted above, are liable to be deleted and the order of the learned single is accordingly modified.

Subject to the modification as indicated above, the above appeals are disposed of.

(JUSTICE T.MEENAKUMARI)

23RD Feburary, 2005

(JUSTICE S.ANANDA REDDY)

GURC.

Copies to:

1. The Vice-Chanceller, Osmania University, Hyderabad.
2. The Registrar, Osmania University,OU, Campus, Hyderabad.
3. The Principal Secretary to Government of Andhra Pradesh, Education Department, Hyderabad.
4. The Chairman, Andhra Pradesh Federation of Teachers Association, Avula Damodaram.
5. The Registrar, Sri Venkateswara University, Tirupathi.
6. The Secretary, Government of Andhra Pradesh, Department of Higher Education, Secretariat, Hyderabad.
7. The Registrar, Nagarjuna University, Nagarjuna Nagar, Guntur District.
8. The Prsident, Osmania University Teachers Association, Registered Association, having its office at Osmania University Campus, located at

University College of Arts and Social Sciences Building, Hyderabad-500 007.

9. The Universities Grants Commission, New Delhi.

10. Two CCs to the GP for Higher Education, High Court Buildings, Hyderabad. (OUT)

11. Two CD copies.

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT APPEAL NOS: 489 OF 1999, 1063 OF 1999

&

1076 OF 1999

(Order delivered by the Honourable

Smt.Justice T.Meenakumari)

23RD DECEMBER, 2004